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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

)
Amendment of Part 90 of the)
Commission's Rules to)
Eliminate Separate Licensing)
of End Users of Specialized)
Mobile Radio Systems)

PR Docket No. 92-79

To: The Commission

COMMENTS OF FLEET CALL, INC.

FLEET CALL, INC.

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June 11, 1992

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I. INTRODUCTION

Fleet Call, Inc. ("Fleet Call"), pursuant to Section 1.415 of the Commission's Rules, hereby respectfully files its Comments in response to the Notice of Proposed Rulemaking (the "Notice") in the above-captioned proceeding.^{1/}

Fleet Call is one of the largest licensees and operators of Specialized Mobile Radio ("SMR") systems in the United States. It provides dispatch, interconnected and ancillary mobile communications services to approximately 135,000 end users on both 800 MHz and 900 MHz SMR systems.

In response to the increasing demand for advanced, high-quality mobile communications, Fleet Call is constructing Enhanced Specialized Mobile Radio ("ESMR or "Digital Mobile") systems in Chicago, Dallas, Houston, Los Angeles, New York and

^{1/} 7 FCC Rcd 2885 (1992).

San Francisco.^{2/} These ESMR systems will combine state-of-the-art digital multiplexing technology with a low power multiple base station configuration to increase by more than 15 times the capacity of Fleet Call's existing SMR systems in each market. The first ESMR system will be operational in Los Angeles in mid-1993, followed by San Francisco in 1994.

Accordingly, Fleet Call has an interest in the Commission's proposal to eliminate separate end user licensing requirements and to simplify its mobile loading reporting requirements. ESMR and other advanced SMR systems will be able to provide service for thousands of additional end users, making the Commission's proposal particularly significant for those operators.^{3/}

II. SUMMARY OF THE PROPOSAL

The Notice proposes eliminating separate licensing requirements currently imposed on SMR end users.^{4/} In lieu of being individually licensed, end users would operate under the SMR base station licensee's "blanket license." The base station licensee would be responsible for exercising effective

^{2/} In re Request of Fleet Call, Inc. for Waiver and Other Relief to Permit Creation of Enhanced Specialized Mobile Radio Systems in Six Markets, 6 FCC Rcd 1533 (1991), recon. den. 6 FCC Rcd 6989 (1991).

^{3/} In addition to Fleet Call, other SMR licensees including members of the Digital Mobile Network Roaming Consortium (Dispatch Communications, Inc., American Mobile Systems, CenCall and Transit Communications), as well as Mobile Radio New England and Advanced Radio Communication Services of Florida, Inc. intend to construct enhanced, digital SMR systems.

^{4/} Section 90.655 of the Commission's Rules requires end users of conventional and trunked SMR systems to license their associated control points, control stations and mobile radio stations.

operational control over all mobile and control stations authorized to use the base station facilities, including compliance with Federal Aviation Act ("FAA") antenna height and lighting restrictions, the National Environmental Policy Act ("NEPA"),^{5/} and all applicable Commission Rules and Regulations. This would eliminate processing of approximately 40,000 end user licensing applications annually resulting in "enormous savings to the public and the Commission."^{6/}

The Notice also proposes to eliminate annual reports by trunked SMR base station licensees and at license renewal indicating the total number of mobiles loaded on their systems.^{7/} Instead, such licensees would submit loading data only when applying for authorizations for which loading is a prerequisite i.e., when an existing license applies for (1) additional channels to expand an existing system or to construct a new system within 40 miles of its existing system, or (2) renewal of a trunked system licensed before June 1, 1993 in a waiting list area. The Notice proposes that loading be defined as the average of the number of mobile and control stations on a licensee's system on the first business day of each of the six months preceding the filing of its application. Loading could be

^{5/} Base station licensees would be responsible for determining whether end users' facilities would have a significant impact on the human environment.

^{6/} Notice at para. 4.

^{7/} See Section 90.651(a) of the Rules.

calculated using the licensee's business records.^{8/}

Finally, the Notice would exempt licensees of trunked SMR systems from the provisions of Section 90.135(a)(5) of the Commission's Rules requiring them to modify their licenses to reflect changes in the number or location of control or mobile transmitters. The Commission recognized that requiring trunked licensees to file a modification application for every variation in the number of licensed mobiles would be unduly burdensome. Moreover, the Commission has no regulatory need for such information on an ongoing basis.^{9/} The Commission would continue to require licensees of conventional SMR systems to file modifications reflecting mobile loading changes in order to determine whether additional mobiles can be authorized on shared use channels.

III. COMMENTS

A. Eliminating End-User Licensing

Fleet Call supports eliminating separate end user licensing. The Commission has taken a number of actions since creating the SMR service to simplify end user licensing requirements.^{10/} End-user licensing has become essentially a ministerial or mechanical matter largely undertaken by radio dealers and sales

^{8/} Business records could include invoices, customer service agreements, customer lists or any other type of record kept in the ordinary course of business. Notice at para. 9.

^{9/} As noted above, the Commission must determine whether a licensee has met the 70-mobile loading standard when considering applications for certain authorizations.

^{10/} Notice at para 3.

agents on behalf of the customer. In addition to the \$35 FCC filing fee, licensing imposes unnecessary administrative overhead on service providers, equipment dealers and end user customers to prepare and file the applications and to amend them as required.^{11/} It imposes on the Commission's licensing staff substantial administrative costs for processing these applications and issuing licenses.^{12/} The Commission can more efficiently and economically meet its statutory radio licensing responsibilities by authorizing end user to operate under the SMR base station authorization.^{13/}

The Notice recognizes that end users operate on an SMR system only if authorized by the station licensee. Fleet Call agrees that the SMR base station licensee is capable of exercising effective operational control of authorized licensed users, thereby obviating the need for separate end user licensing. Moreover, FAA and NEPA clearances are rarely necessary for end users (mobile units) or for control stations or

^{11/} The licensing process is a very labor-intensive one; it typically requires a salesperson to obtain information from the customer about its business, the salesperson communicating that information to a license application preparer, the preparer delivering the application to the customer, the customer reviewing the application and signing it, the preparer forwarding the application to the Commission and the customer completing a temporary permit. It also requires follow-up, monitoring and additional record-keeping to assure that the license is granted.

^{12/} The costs to both licensees and the Commission are excessively burdensome given the Commission's decision to phase out loading requirements thus reducing the uses of mobile loading data.

^{13/} See Section 301 of the Communications Act of 1934, as amended (the "Act").

control points and can be handled by the system operator. The administrative and financial savings and efficiencies of eliminating separate end user licensing outweigh many times over the occasional effort imposed on base station licensees to obtain these clearances.

In 1990, the Private Radio Bureau (the "Bureau") dismissed an industry proposal to eliminate SMR end user licensing.^{14/} The Bureau concluded that mobile loading information derived from end user license applications was necessary for spectrum management purposes, including whether a system meets loading requirements and/or is eligible for additional channels, whether conventional channels warrant exclusivity and to assure compliance with NEPA and FAA requirements. The Bureau saw no alternative ways to collect this information at that time, but indicated its willingness to consider other approaches.

The Notice, initiated on the Commission's own motion, addresses these concerns and concludes that mobile loading information generated from SMR base station licensee business records can be used for administering current loading-related licensing requirements. In addition, as discussed above, the base station licensee can take over responsibility for NEPA and FAA compliance. Thus, eliminating end user licensing, as proposed in the Notice, would not undermine administration or enforcement of any existing SMR licensing requirements. It would

^{14/} See Amendment of Part 90 of the Commission's Rules to Modify Application Requirements for End Users of Specialized Mobile Radio Systems, 5 FCC Rcd 2975 (1990).

however, significantly reduce unnecessary burdens on the industry and the Commission.

The Notice proposes accommodating SMR roaming arrangements by deeming an end user, while roaming, to be temporarily associated with and licensed to that system. The roaming "host" would be required to assume "the same responsibility for the end user's mobile stations as if the end user's station were licensed to it."^{15/} This approach appears workable and Fleet Call supports it. The Commission has recognized the public's increasing desire for wide-area, regional and national SMR services.^{16/} It must not inadvertently impose any obstacles to SMR licensees entering into roaming agreements to provide wide-area service to SMR users.^{17/}

Fleet Call applauds the Commission's proposal to develop a compliance checklist for SMR end user customers. A checklist will make it easier for SMR base station licensees to ensure that their customers comply with the Commission's Rules. The list should include questions to verify all material Commission

^{15/} Notice at n. 12.

^{16/} See e.g., Amendment of Part 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896-901 MHz and 935-940 MHz Bands Allotted to the Specialized Mobile Radio Pool, 4 FCC Rcd 8673 (1989).

^{17/} This is of particular significance to licensees of ESMR or other advanced SMR systems using a low-power, multiple base station architecture in which end users operate on several licensed base stations as they move through the system's service area. Eliminating end user licensing as proposed in the Notice would avoid the possibility of having to license end users on each base station in an ESMR system's service area.

requirements for end user operation including: (1) whether the potential customer is a foreign government or a representative of a foreign government; (2) whether construction of the potential customer's control station(s) involves facilities listed in Section 1.1307 of the Commission's Rules (these types of facilities should be individually listed to help the customer answer the question); (3) whether operation of the potential customer's control station(s) complies with the antenna height and lighting restrictions of the Federal Aviation Act (again, these restrictions should be individually listed in question form to assist the response); and (4) whether operation of the potential customer's radios exceeds the Commission's specified power limitations for SMR control stations and mobile units.

B. Loading Data and Filing Requirements

Fleet Call also supports the Commission's proposal to eliminate periodic loading reports and to require this information only when a base station license applies for an authorization in which loading is a prerequisite i.e., when a licensee seeks permission to expand a system, construct a new system within 40 miles of an existing system, or renew a license subject to the 70 mobiles per channel five-year loading standard.^{18/} Fleet Call, however, has two comments on the mechanics of this proposal.

First, there appears to be no policy served in requiring

^{18/} See Sections 90.623(c)(2) and 90.631(b) and (c) of the Commission's Rules.

licensees of systems licensed prior to June 1, 1993 that have already met their loading deadlines and been renewed to submit current loading information with subsequent renewal applications. Fleet Call would clarify proposed Section 90.658 of the Rules to require submission of loading information with renewal applications only for those trunked SMR systems licensed prior to June 1, 1993 that have not yet met their five-year loading requirement. This would conserve administrative resources for both the renewal applicants and the Commission.

Second, requiring the SMR base station licensee to calculate the average number of mobile and control stations on the first day of the six months prior to filing does not serve the Commission's policy of ensuring sufficient use of licensed channels. Using a six-month average will inflate loading for licensees with a customer base that recently decreased, and will penalize licensees that recently loaded a large number of customers. The most relevant loading totals for determining a system's eligibility for expansion, or renewal of its license without channel takebacks, is its current loading -- not an average of the past six months. In addition, reporting current mobile loading is administratively less burdensome than developing a six months average.

C. Modification of Licenses to Reflect Mobile Loading

Fleet Call also supports exempting trunked SMR licensees from having to file license modifications to reflect changes in the number or location of mobile transmitters. There is no


regulatory use for this information on a daily basis; continuing this current requirement would impose an excessive and unnecessary burden on both licensees and the Commission. In light of the Commission's conclusion that end user licensing is no longer warranted, there is no need to amend SMR base station licenses to reflect routine changes in mobile loading totals.

IV. CONCLUSION

Accordingly, for the reasons discussed above, Fleet Call supports eliminating separate end user licensing as proposed in the Notice. This will reduce significantly unnecessary reporting and licensing burdens on the industry and administrative overhead for the Commission.

Respectfully submitted,

FLEET CALL, INC.

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Dated: June 11, 1992

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments of Fleet Call, Inc. has been mailed by United States first class mail, postage prepaid, this 11th day of June, 1992, to the following:

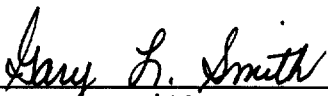
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